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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 9, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 05MD-239

MAUI

Grant of Term, Non-Exclusive Easement to William T. Sturgis,
Trustee of the William T. Sturgis Family Trust Dated February
12, 1980 for Seawall Purposes, Lahaina, Maui, Tax Map Key: (2)
4-5-003: seaward of 028.

APPLICANT:

William T. Sturgis, Trustee of the William T. Sturgis Family Trust
Dated February 12, 1980 whose mailing address is 1515 Foothill Road,
Gardnerville, Nevada 89410.

LEGAL REFERENCE:

Section 171-13 and -53(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located at Lahaina, Maui, identified by
Tax Map Key: (2) 4-5-003: seaward of 028, as shown on the attached
map labeled Exhibit "A."

AREA:

1,112 square feet, more or less.

ZONING:

State Land Use District: Conservation / Urban
County of Maui CZO: R-2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Unencumbered with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing seawall over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Office of Conservation and Coastal Lands (OCCL) has determined the seawall appeared to be built before 1974, prior to the enactment of the EIS law and this action is therefore exempt from HRS Ch. 343.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment.
- 2) Provide survey maps and descriptions according to State DAGS standards at Applicant's own cost.
- 3) Remove any barriers (fences, overgrown vegetation, railings, signs, etc.) established beyond the Applicant's property that may prevent lateral access by the public over state lands.
- 4) Comply with all County of Maui Special Management Area and Shoreline rules and requirements.
- 5) Conduct an Archaeological Inventory Survey and submit to the State Historic Preservation Division for review.
- 6) If pursuant to Archaeological Inventory Survey the seawall is determined to be over 50 years old. The seawall shall be documented and issued a number for the State's Inventory of Historical Places list.
- 7) Remove placement of all rocks from the seaward toe of the wall that do not occur naturally (Exhibit "C" and "D").
- 8) Obtain a Right-of-Entry permit from the Maui District Land Office prior to any work to mitigate seawall concerns.

REMARKS:

OCCL by letter dated April 26, 2005 stated that historical aerial photographs indicate that this area has been significantly altered by the proliferation of shoreline hardening. A 1963 aerial photograph provides evidence of the seawall. It appears that the improvements were made prior to the establishment of the conservation district laws in 1964. Removal of the encroachment would have little improvement on beach resources. Removal would provide little if any additional land for public use. Furthermore, removal of the encroaching seawall would cause undermining of any structures in the vicinity of the wall and fill.

Furthermore, OCCL recommended the Applicant to remove all rocks from the seaward toe of the wall that do not occur naturally (Exhibit "C" and "D") and to obtain a right-of-entry permit from the Maui District Land Office prior to any work to mitigate seawall concerns.

Comments were solicited from:

Agency	Comments
DHHL	No Comment
County of Maui, Dept of Planning	Comply with all SMA and Shoreline Rules
County of Maui, Public Works	No Comment
State Historic Preservation Div	Conduct an Archaeological Inventory Survey
OHA	Appraise at fair market value and maintain public access
OCCL	Remove rocks placed at the seaward toe of the seawall

Pursuant to the Board's action of June 28, 2002, under agenda item D-17 which established criteria for imposing fines for encroachments, staff is recommending a fine of \$500 as the subject encroachment is over 100 square feet.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board:

1. Impose a \$500 fine for illegal encroachment, under Section 171-6(12).
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 4-5-003:028, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

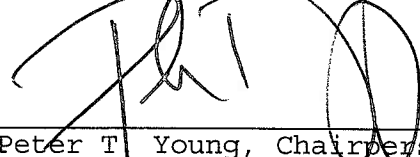
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to William T. Sturgis, Trustee of the William T. Sturgis Family Trust Dated February 12, 1980 covering the subject area for seawall purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 4-5-003:028, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 - E. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,

Charlene E. Ornellas

for Daniel Ornellas
Maui District Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

PLAT 08

L. C. AN. 1086:4

2) STREETS

LC AW 6061 : 2
Amfac, Inc.

Mehle Aw 63:1

SUBJECT AREA

S E A

EXHIBIT A

LAHAINA, MAUI.

STREET

ADVANCE SHEET
SUBJECT TO CHANGE

PLAT 02

Dropped parcels: 5, 10, 35, 11,
19, 30, 39, 40.

SECOND	DIVISION
ZONE	SEC. PLAT
4	5 03
CONTAINING PARCELS	
Scale: 1 in. = 50 ft.	

PRINTED.....



Barriers restricting public
access (fence, trees)

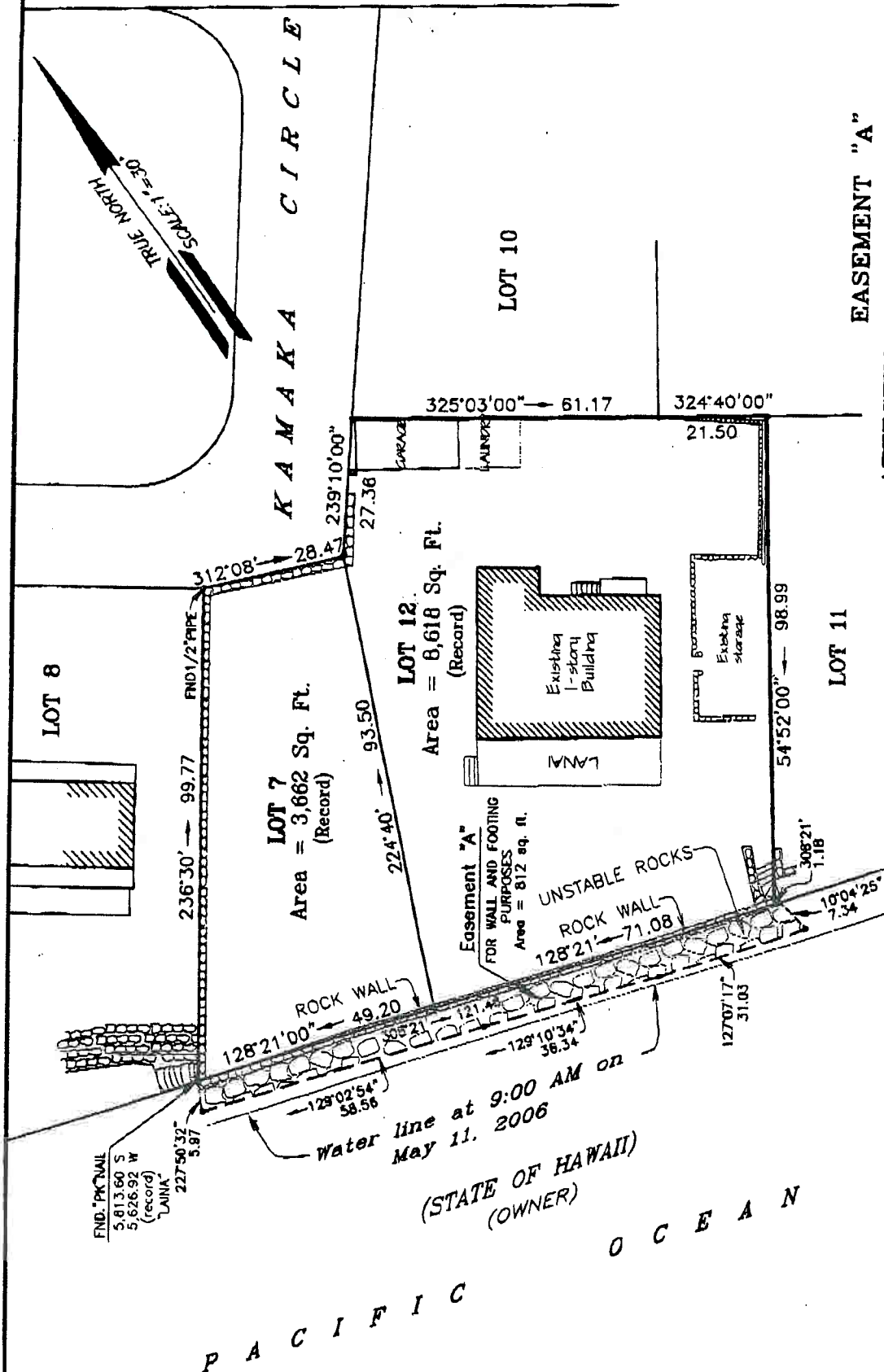
EXHIBIT B



Rocks to be removed from the
toe of the seawall seaward of
TMK (2) 4-5-003:028

EXHIBIT C

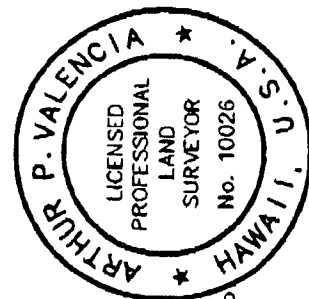
FRONT STREET



EASEMENT "A"
AFFECTING STATE OF HAWAII LAND
IN FAVOR OF

LOT 7
PUUNOA SUBDIVISION NO. 3
File Plan 575
AND

LOT 12
PUUNOA SUBDIVISION NO. 2
Puunoa, Lahaina, Maui, Hawaii



This work was prepared by me
or under my direct supervision.

Arthur P. Valencia 5/22/06
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 10026



Scale 1" = 30 ft

T.M.K.: (2) 4-5-03:007

Date: 5/11/06

05061080

EXHIBIT "D"